

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL
CIRCUIT, IN AND FOR LAKE COUNTY FLORIDA

IN RE: Grand Jury Investigation

REPORT OF THE GRAND JURY

This body has convened to review the circumstances surrounding the shooting of RP, by Lake County Sheriff's Office Deputy Richard Palmer. We have heard the testimony of RP, investigators, and experts. Deputy Palmer has voluntarily appeared before us and given his testimony. We have seen the video of the shooting recorded by the in-car camera of a Lake County Sheriff's Office (LCSO) patrol car. We have also heard numerous recorded witness statements. We have been instructed on the law that applies to this case. We are satisfied we have a full understanding of the events and the circumstances that surrounded it.

In this case, there is no question about what happened, because the shooting was captured on an in-car video. The question we have tried to answer is why the shooting occurred. We have considered three possible answers to that question. Those are self defense, accident or criminal conduct. As we explain below, we have determined that the shooting was not criminal conduct

THE SHOOTING AND EVENTS LEADING UP TO IT

Deputy Palmer, at the time of this shooting, had 24 years of experience as a law enforcement officer, 19 years of that as a Lake County Deputy Sheriff. His personnel file showed that he had never had any complaints about excessive use of force, nor had he ever discharged his firearm in the line of duty, other than during training. He had received proper training in the use of his firearm and had demonstrated proficiency with it.

At 12:20 AM on October 11th, 2016 LCSO received a 911 call reporting a noise complaint in Paisley, located in the northeastern part of Lake County. In portions of this area of Lake County, there is a higher incident of crimes, including drug crimes and crimes of violence. A Lake County Deputy Sheriff was murdered, and two others wounded, in this area of the county in 2005 during a domestic disturbance call.

The person who made the 911 call told the dispatcher that the noise was coming from a house and that the house was being used to cook methamphetamine. The complainant told the dispatcher the occupants used the house to cook methamphetamine, and they did not know exactly what was happening but the noise from the house was disturbing the complainant. The LCSO dispatcher assigned the call to a deputy and assigned Deputy Palmer as back up and relayed to the deputies the information provided by the caller. Because he was closer, Deputy Palmer was the first deputy to arrive. Deputy Palmer knew where the other responding deputy was coming from and knew that it would be some time before that deputy arrived. Although the area was not his assigned zone, he was familiar with the area and the problems that occurred in the area.

When Deputy Palmer arrived, he began driving through the area in his marked patrol

car, with his car window down, attempting to locate the source of the noise. As he approached an intersection, a car coming from his right (and the general direction of the noise complaint) ran a stop sign directly in front of him, making a left turn so as to pass directly beside Deputy Palmer's car. As the car passed, he told the driver, who was later determined to be RP, to stop, but she did not. The video shows that the driver's side window of RP's car was also down. As the car drove by Deputy Palmer, RP waved and appeared to be apologizing for pulling in front of the deputy. Deputy Palmer then made a U-turn and followed RP a short distance when she pulled off the roadway into short drive that ended at a wooded area. Deputy Palmer pulled his car in behind RP's car.

Because of the speed with which the event happened, Deputy Palmer did not turn on his overhead lights. Also, because of the speed at which the events occurred, Deputy Palmer did not notify dispatch of what was happening or where he was located. There were no streetlights or other ambient lighting in the area, only Deputy Palmer's headlights provided illumination.

What happened in the next 3 seconds is the basis for our inquiry. Deputy Palmer's car was equipped with an in-car video. When the overhead lights are turned on, the camera records both the video and audio of what happens. Because the overhead lights were not on, the camera was operating in stand-by mode. It was recording the video, but at a much slower speed, and therefore with less clarity. Additionally, there is no audio recording. Deputy Palmer got out of his car and stood beside the driver's door, thus he was seeing the event from a different angle than the camera, which was located in the center of his dashboard.

Because of the circumstances surrounding the situation, Deputy Palmer decided to treat the situation as a "felony stop." That means that he would stay near his car so he could take cover, if need be, and that he would draw his firearm and have it at the ready. We do not find fault with this decision.

The video shows that, once RP's car came to a stop, Deputy Palmer's car pulled in and came to a stop. The video shows the car making a slight rocking motion, consistent with Deputy Palmer getting out of the car. RP remained in her car momentarily. Because of the angle of the camera, the video does not show what she was doing during this time. Deputy Palmer stated that RP had a dark object in her hand at this time. RP stated she was using her cellphone at this time. An examination of RP's phone show activity shortly before the shooting. This would account for the object Deputy Palmer saw.

The video shows RP then stood up, put both of her hands in the air, about at head level, and began to walk quickly toward the deputy. After taking a few steps toward the deputy, she drops her hands down to about waist level. Then as she begins to raise them again, she is shot. At the time of the shot, she was near the rear of her car. The total time elapsed from RP getting out of her car, until the shot is fired, is less than 3 seconds.

Deputy Palmer went immediately to where RP had fallen, quickly searched her, removed an object (later determined to be a cellphone) from her left jacket pocket, removed her jacket and used it to apply pressure to her wound. He also notified the dispatcher that shots had been fired and called for EMS to respond.

Deputy Palmer gave a voluntary statement to the Florida Department of Law Enforcement that evening. Likewise, he voluntarily appeared before us and testified. In both his statement to FDLE and his testimony to us, Deputy Palmer testified that, when he got out of his car, he saw RP putting something in her left pocket as she was getting out of the car. While

the video does not show this, it is not inconsistent with what it does show. Deputy Palmer said that RP then got out of the car, began walking quickly toward him, did not obey his commands to stop, and got something out of her pocket, which he perceived to be a gun, whereupon he fired one shot.

Immediately after being taken to the hospital, and before undergoing surgery, RP gave a brief statement to investigators, which was largely consistent with what appears on the video. RP also stated she had consumed a small amount of alcohol, but that she was not under the influence of any substances at the time of the shooting. However, toxicology results show that she had amphetamine and cocaine in her system, however the quantity of these drugs is not known.

THE POSSIBILITY THE SHOOTING WAS IN SELF DEFENSE

In his statement immediately after the shooting, and in his testimony before us, Deputy Palmer has stated that he believed RP had gotten an object from her pocket and he fired due to his fear that it was a firearm. It is undisputed that RP was not armed and Deputy Palmer would have been mistaken in his belief that she was. However, this mistake, if reasonable under the circumstances, would not make the shooting a crime. We have been instructed that the law allows a law enforcement officer to use any force, even deadly force, when the officer "reasonably believes [it] necessary to defend himself ... from bodily harm." We have also been instructed that in deciding whether the use of force was justified, we must consider the circumstances by which Deputy Palmer was surrounded at the time. The danger did not need to be actual, but the appearance of danger must have reasonably seemed so. We also have been instructed that the law of the State of Florida requires that there be evidence of malice or gross misconduct before an officer can be held criminally liable for a use of force, specifically a shooting, which occurs during a duty-related incident. Mistaken perception cannot form the basis of criminal charges.

In trying to understand Deputy Palmer's perception and the reason why his version of the events is different than that shown on the video, we have heard testimony about the effects of stress on human perception and recall. Specifically, it is well known among experts in the field that, in times of high stress, human beings often experience distortions of time, of sight, of hearing, and of memory. It can also cause decision-making to rely less upon judgment and more upon instinct.

Deputy Palmer was dispatched to what, on its surface, might be seen as a routine noise complaint. Deputy Palmer, understandably, saw it as something more. The noise complaint did not involve a loud radio or similar complaint, but was more like someone was damaging the property or involved in an altercation. Additionally, because Deputy Palmer was familiar with the area and the problems associated with it, his concern for his own safety was further elevated. Finally, this was a remote area and the other responding deputy was still some distance away, meaning Deputy Palmer was alone.

Once Deputy Palmer encountered RP as she turned in front of his car, she failed to obey his lawful command to stop and continued driving away. As Deputy Palmer was turning around, RP turned off of the dirt road and down a secluded driveway to its end. Deputy Palmer pulled in behind her, and got out of his car. At this point, Deputy Palmer was in a remote area, with no

immediate backup, no one else around, and about to confront an individual who had ignored his command to stop and whose driving pattern was consistent with someone attempting to evade him.

We were instructed by a training officer on the procedures of protocol taken during a felony arrest. The shot fired by the deputy does not appear to have been accidental. We come to this conclusion in part because after the shooting, Deputy Palmer approached RP with his firearm drawn as he should do if he perceived a threat and proceeded to search her for weapons.

Further, we recognize that we have the luxury of hindsight and unlimited time to review the matter in great detail. Deputy Palmer did not have either of these, rather, he was forced to make a decision in a matter of seconds, while on the side of a dark road in a very high stress situation.

Given the totality of the circumstances, we cannot exclude the possibility that Deputy Palmer may have fired the shot in genuine fear for his safety, even though there was no actual threat to him.

CONCLUDING REMARKS

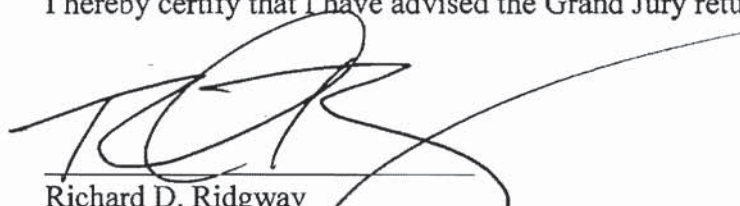
We feel we should note that, while we do not blame RP for what happened, she is the person responsible for creating the situation in which the deputy found himself. Had she stopped her car, stayed seated in her car, or followed Deputy Palmer's orders to stop when she got out of her car, there is no doubt that the shooting would never have occurred.

Finally, we recognize that law enforcement officers are an important, and often undervalued, part of our community. The work they do is dangerous and often misunderstood. We do not want our remarks on this situation to be misconstrued as a criticism of officers in general. We appreciate the work they do. However, because the work they do is so important and the consequences of misjudgment on their part potentially deadly, we think it is important that these types of incidents be closely scrutinized.

Dated this 24th day of March 2017


Foreperson of the Grand Jury

I hereby certify that I have advised the Grand Jury returning this presentment as required by law.


Richard D. Ridgway
Assistant State Attorney